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Your Pension Rights

A Guide for Members of Registered Pension Plans in Ontario



**Endorsed by the Canadian Association
of Pension Supervisory Authorities (CAPSA)**

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Introduction

Employment pension plans provide an important source of retirement income for employees and their families. Employers set up pension plans voluntarily. Once they do so, they must comply with pension law and the provisions of the pension plan, as well as federal tax law.

In Ontario, the *Pension Benefits Act (PBA)* establishes minimum standards for administering and funding pension plans and pension benefits. It applies to every registered pension plan provided for people employed in Ontario.

Pension plans in federally-regulated industries, such as banking, interprovincial transportation, and telecommunications, are regulated by federal pension legislation. This booklet explains the minimum standards that apply to all Ontario-registered pension plans. It is not a guide to the details of any particular pension plan, since some plans provide benefits that are more generous than the legal minimum standards. Contact your plan administrator for the details of your specific plan.

Canadian Association of Pension Supervisory Authorities

The Canadian Association of Pension Supervisory Authorities, or CAPSA, is an association of pension regulators from nine provinces and the federal government. CAPSA's mission is to promote an efficient and effective pension regulatory system in Canada. It strives to be a leader in the development and harmonization of pension policy and the setting of pension standards.

About the Financial Services Commission of Ontario

The Financial Services Commission of Ontario (FSCO) is an arm's-length agency of Ontario's Ministry of Finance. All Ontario-registered pension plans are regulated by FSCO. FSCO is a member of CAPSA.

FSCO ensures that pension plans comply with minimum standards set out under the *PBA* and its regulations. FSCO:

- ✓ registers new pension plans and pension plan amendments
- ✓ processes required filings by plan administrators
- ✓ monitors the financial status of pension plans
- ✓ administers the Pension Benefits Guarantee Fund (PBGF) and collects PBGF assessments
- ✓ co-ordinates the administration of pension plans of insolvent (bankrupt) companies
- ✓ investigates alleged breaches of the *PBA* and its regulations, and takes enforcement action when required
- ✓ responds to enquiries and complaints from pension plan members.

For more information about FSCO's services, call our 24-hour information line at (416) 250-7250 or toll free at 1-800-668-0128, or visit our web site at www.fsco.gov.on.ca.



Glossary of Pension Terms

ACTUARY - A professional who is responsible among other things, for performing valuations of the assets and liabilities of pension plans and calculating the costs of providing pension plan benefits. In Canada, a person must be a member of the Canadian Institute of Actuaries (CIA) to be recognized as a professional actuary.

ADMINISTRATOR - The person responsible for running the pension plan. The administrator is usually the employer who established the plan, but can also be a board of trustees, a pension committee, an insurance company, or some other body established by law.

ANNUITY - A contract purchased from an insurance company to provide periodic (usually monthly) payments to a person for his or her lifetime.

BRIDGING BENEFIT - A bridging benefit provides income from the date the **member** takes early retirement to the date when the member is entitled to receive Canada Pension Plan (CPP) or Quebec Pension Plan (QPP) retirement benefits and/or Old Age Security (OAS) benefits.

COMMUTED VALUE - The amount of an immediate lump-sum payment estimated to be equal in value to a future series of periodic payments.

CONTINUOUS SERVICE - The period during which an employee is continuously employed by the same employer. Continuous service may be defined in the pension plan (or by law) to include certain periods of absence and/or service with an associated or former employer.

DEFERRED PENSION - A pension determined when a member's employment or plan terminates, that is not payable until some later date, usually the member's normal or early retirement age.

DEFINED BENEFIT (DB) PLAN - A pension plan that defines the pension benefit to be provided, based on criteria such as years of plan membership, and career or final average earnings, etc. Employees may or may not contribute to the plan.

DEFINED CONTRIBUTION (DC) PLAN - A pension plan that defines the amount of contributions, including any possible employee contributions, to the pension plan, determined on an individual account basis. Also known as a money purchase plan. The benefit the member will receive on retirement is calculated at the date of retirement and is based on accumulated contributions and investment yield.

EMPLOYMENT PENSION PLAN - A plan that provides a regular income for a retired member's lifetime. This term includes plans covering both public and private-sector employees, but does not include the CPP or other public programs.

GUARANTEED ANNUITY - An annuity which will be paid to a person for his or her lifetime, with a minimum number of payments guaranteed to the person, or his or her beneficiary or estate. For example, if a person who owns an annuity with a five-year guarantee dies after three years, payment will continue to a beneficiary or the estate for two years.

JOINT AND SURVIVOR ANNUITY - An annuity payable for the lifetimes of both the former plan member and his or her spouse or same-sex partner. This is required to be provided as an option when a member terminates employment. Payments to the survivor are usually reduced by 40% after the member's death.



LIF - See Life Income Fund.

LIFE INCOME FUND (LIF) - A particular form of RRIF offered by financial institutions. A LIF may be purchased with pension monies when a member leaves employment or retires. A LIF is used to provide a regular retirement income, and is subject to minimum and maximum withdrawal limits. LIFs are governed by the PBA and the *Income Tax Act (Canada) (Income Tax Act)*.

LIRA - See Locked-In Retirement Account.

LOCKED-IN RETIREMENT ACCOUNT (LIRA) - A particular form of RRSP offered by financial institutions. A LIRA is used to hold money that is transferred out of a pension plan on termination of employment. LIRAs are governed by the PBA and the *Income Tax Act*. They are often referred to as "locked-in RRSPs."

LOCKED-IN RETIREMENT INCOME FUND (LRIF) - Like a LIF, an LRIF is a form of RRIF offered by financial institutions. An LRIF may be purchased with money transferred out of a pension plan when a member terminates or retires. An LRIF is used to provide a regular retirement income, and is subject to minimum and maximum withdrawal limits. LRIFs are governed by the PBA and the *Income Tax Act*.

LOCKING IN - A legislative requirement whereby pension benefits that are vested cannot be used for any purpose other than to provide a retirement pension. Also applies to LIFs, LIRAs and LRIFs.

LRIF - See Locked-In Retirement Income Fund.

MEMBER - An active member of a registered pension plan, or a person who is no longer an active member but who is entitled to a benefit under the plan.

MONEY PURCHASE PLAN - See Defined Contribution Plan.

PBA - See *Pension Benefits Act*.

PBGF - See *Pension Benefits Guarantee Fund*.

PENSION ADJUSTMENT (PA) - The value of a person's pension benefit accumulated over a calendar year as determined under the *Income Tax Act*. For **defined benefit plans**, the PA is determined by a formula. For **defined contribution plans**, the PA is the total of all employer and employee contributions for the year. A person's **RRSP** deduction room under the *Income Tax Act* is reduced by the value of the prior year's PA.

PENSION BENEFITS ACT - The law regulating **registered pension plans** in Ontario. It sets out minimum benefit provisions and funding and solvency (financial accountability) requirements.

PENSION BENEFITS GUARANTEE FUND (PBGF) - An insurance fund established by the **PBA** to guarantee certain defined benefits when the employer is insolvent or bankrupt and is unable to fund all promised pension benefits on the wind-up of a plan.

REGISTERED PENSION PLAN - A defined benefit or defined contribution plan which is required to be registered with FSCO.

REGISTERED RETIREMENT INCOME FUND (RRIF) - A personal retirement income fund offered by financial institutions. An RRIF is used to provide an ongoing minimum flow of income. The minimum withdrawal amounts are determined by the *Income Tax Act*. RRIFs are governed by the *Income Tax Act*.

REGISTERED RETIREMENT SAVINGS PLAN (RRSP) - A personal retirement savings account for individuals offered by financial institutions. RRSP contributions can be deducted from an individual's taxable income, to a specified amount. RRSPs are governed by the *Income Tax Act*.

RRIF - See *Registered Retirement Income Fund*.



RRSP - See Registered Retirement Savings Plan.

SAME-SEX PARTNER - Same-sex partner is defined as either of two persons of the same sex who are living together in a conjugal relationship continuously for a period of not less than three years, or in a relationship of some permanence if they are the natural or adoptive parents of a child.

SPOUSE - Either of a man and woman who are married to each other, or who are not married to each other but are living together in a conjugal relationship continuously for at least three years, or who are in a relationship of some permanence if they are the natural or adoptive parents of a child.

TRANSFER RIGHTS - Options available when an individual terminates employment or when a plan winds-up. An individual may transfer the **commuted value** of accumulated pension benefits to a **LIRA**, or **LIF**, or **LRIF**, or to another pension plan, if agreed to by the new plan. The commuted value may also be used to purchase an **annuity**. A member may choose to forego these options and instead receive a **deferred pension** from the plan at retirement. Also known as "portability options".

VESTED BENEFITS (VESTING) - Benefits to which an employee is entitled under a pension plan by satisfying age and/or service requirements. Ordinarily involves simultaneous **locking-in** of such benefits.

WIND-UP / WINDING UP - Discontinuation of all or part of a pension plan by the employer. Often results from bankruptcy of the employer, or from corporate restructuring or downsizing.

YEAR'S MAXIMUM PENSIONABLE EARNINGS (YMPE) - The earnings on which CPP and QPP contributions and benefits are calculated. YMPE changes each year according to a formula using average wage levels. YMPE is published annually by the Canada Customs and Revenue Agency¹.

YMPE - See Year's Maximum Pensionable Earnings.

¹ formerly Revenue Canada

Financial Planning for Retirement

Financial security is a significant concern for many Ontarians as they approach the end of their working lives. As a general rule, most of us need a retirement income of about 70% of pre-retirement income to maintain our standard of living.

The retirement income system in Canada is a blend of mandatory and voluntary arrangements. It divides responsibility for the provision of retirement income among governments, employers, unions, and individuals.

This system has been described as a three-tiered system.

The first tier, the publicly-administered pension plans, forms the foundation on which all retirement planning is built. These plans include the Old Age Security Program (OAS), the Canada Pension Plan (CPP) which is administered by Human Resources Development Canada, and the Quebec Pension Plan (QPP) which is administered by the Quebec Pension Board. The Ontario Ministry of Finance administers the Guaranteed Annual Income System (GAINS), which assures a minimum annual income for qualifying Ontario residents who are more than 65 years old.

The second tier is the subject of this booklet. It consists of employment pension plans sponsored by employers (sometimes in collaboration with unions) as part of employees' overall compensation packages.

The third tier of the retirement income system is made up of personal retirement savings, usually (but not necessarily or exclusively) through tax-deferred arrangements such as RRSPs.

Information on the Old Age Security Program and the Canada Pension Plan

Old Age Security Program (OAS)

The OAS is a monthly pension that is paid to people who are 65 years of age and older and meet the residency and maximum income requirements. The Government of Canada also provides the Guaranteed Income Supplement (GIS), which is a family-income tested benefit that goes to low-income OAS pensioners. Spouse's Allowance benefits are also available to low-income 60 to 64 year olds who are married to GIS recipients, or have been widowed.

Canada Pension Plan (CPP)

The CPP provides you or your dependents with some financial protection if you become disabled or die, or when you retire. The amount of your CPP benefits depends on how much and for how long you contribute. The federal and provincial governments jointly manage the CPP. The CPP operates in every province and territory except Quebec, which has a similar pension plan, the Quebec Pension Plan (QPP).

For questions about OAS and CPP

Visit the Human Resources Development Canada (HRDC) website at www.hrdc-drhc.gc.ca/isp or call the HRDC at:
1-800-277-9914 (English)
1-800-277-9915 (French)
1-800-255-4786 (TTY/ATS)

Sources of Retirement Income

PUBLICLY ADMINISTERED PENSION PLANS

Old Age Security (OAS)

Canada/Quebec Pension Plan (CPP/QPP)

Guaranteed Annual Income System (GAINS)

EMPLOYMENT RETIREMENT OR SAVINGS PLANS

Registered Pension Plans

Profit Sharing Plans

Supplementary Retirement Plans

PERSONAL RETIREMENT SAVINGS

Registered Retirement Savings Plans

Registered Retirement Income Funds

Annuities

This booklet will focus on registered pension plans that the Financial Services Commission of Ontario regulates through the *Ontario Pension Benefits Act*.

Retirement Age

Normal retirement age

A member who reaches normal retirement age is entitled to an unreduced pension. The pension plan must state the normal retirement date, which must be no later than one year after the member turns 65. This does not mean that you have to retire when you reach the normal retirement date under the plan. The age at which you are required to retire will depend on the terms of employment established by your employer. It is also subject to the *Ontario Human Rights Code*, which prohibits age discrimination for employees between the ages of 18 and 65.

Early retirement

A pension plan member who is within 10 years of normal retirement age, and is entitled to a deferred pension, must be allowed to receive a pension from the plan. The early retirement pension can begin at any time within 10 years of the normal retirement date. For example, if your plan provides for normal retirement at age 60, you may choose to start receiving a pension at any time between ages 50 and 60.

As a member, you should be aware, however, that by selecting an early retirement pension, the amount of your pension may be reduced. This is because of the increased number of years during which your pension will be paid. The precise amount of the reduction, if any, will depend on several factors, including the terms of your plan and the *Income Tax Act*.

Early retirement windows

Some plans offer an early retirement “window” at particular times. Employers often use this to reduce the size of their workforce. The window gives eligible members a time-limited opportunity to retire early with certain benefit enhancements that would not otherwise be available. Eligibility is usually based on a combination of age and years of service. A common benefit enhancement is a bridging benefit.

Postponed retirement

Members may choose to postpone retirement and continue growing their pension benefits if their pension plan permits. However, if you choose to receive pension benefits during the postponement period while continuing to be employed, no future benefits can be accumulated. The *Income Tax Act* specifies that you must start receiving your pension no later than the end of the year in which you turn 69.

Types of Registered Pension Plans

Registered pension plans are classified either as defined benefit plans or defined contribution plans. It is important that you understand which type of plan you belong to, since this has an impact on the kind of pension benefits you receive.

Defined benefit (DB) pension plans

A DB plan provides you with a defined pension benefit when you retire. This benefit usually depends on factors such as your years of plan membership and earnings. Different types of formulas can be used to calculate a member's benefits. The particular formula used is described in detail in the plan text and summaries.

Some defined benefit plans also provide other benefits, such as disability benefits, bridging benefits, unreduced early retirement benefits, indexation, and plant closure benefits.

Defined contribution (DC) pension plans

In a DC pension plan, employer and employee contributions are defined instead of the actual pension benefit. These contributions are often a fixed percentage of each year's earnings and are deposited in an individual plan account in the member's name. Interest and/or other investment earnings, if any, are credited to this account. DC plans are often called money purchase plans, since the money in the account will often be used to purchase an annuity commencing at retirement.

The amount of the annuity will depend on factors such as:

- the amount of money in the investment account upon retirement
- the interest rate at the time the annuity is purchased
- the type of annuity (e.g. single life, joint and survivor, guaranteed)
- the age at which the annuity begins.

In some DC plans, the employer's contributions are a percentage of the employer's profit. This is often referred to as a profit sharing plan.

Note: some pension plans include both defined benefit and defined contribution components.

Member-Directed Investments in DC Plans

Some DC plans allow members to select investments for defined contribution accounts. Usually, the employer selects the basket of investments from which the employee may choose. These investments must comply with the investment rules set out in pension legislation and the Income Tax Act.

Since the amount of your pension will be affected by how successfully your contributions are invested, it is important that you make informed investment decisions. Although the legislation does not specify what information and investment options you should receive, it is prudent that an administrator provide you with at least the following:

- sufficient information to make informed investment decisions
- investment options that provide diversification
- regular statements that show how investments are performing.

Multi-Employer Pension Plans

Multi-employer pension plans (MEPPs) are a special type of plan. They are established for employees in industries such as construction and food, where individuals tend to move frequently between employers or are employed by a succession of small to medium-sized businesses.

MEPPs allow two or more unrelated employers in a particular industry or trade to contribute to a single pension fund. The fund is established by an agreement, statute or municipal bylaw. In the construction industry, for example, MEPPs exist for carpenters, bricklayers, plumbers and boilermakers.

Since there is usually a labour union representing workers in these industries, most MEPPs are sponsored and/or administered by the union. The collective agreement requires each employer who participates in the MEPP to contribute a fixed amount per hour worked for each employee. The agreement also establishes the benefit level.

Because they differ in significant ways from single-employer pension plans, MEPPs are subject to some special rules.

Administration

A single-employer pension plan is usually administered by the employer. An MEPP must be administered by a board of trustees, at least half of whom must be representatives of plan members.

Funding and Pension Benefits Guarantee Fund (PBGF) coverage

Since employer contributions to an MEPP are set at a fixed amount, it is possible that the funds contributed by the employers will not be enough to provide the intended benefits. If this happens, the benefits may have to be reduced. In other words, if you are a member of an MEPP, your plan would be changed to reduce the value of the pension benefit accumulated before the date of the amendment, or to reduce benefits already being paid out. Such an amendment would be void in most single-employer pension plans.

Furthermore, amendments which reduce the value of your future benefits, called adverse amendments (see page 45), may be made to an MEPP without having to notify the people affected. This is because it is assumed that your interests are being looked after by the board of trustees, at least half of which consists of representatives of members. Lastly, benefits provided by an MEPP are not covered by the PBGF.

Eligibility for Pension Plan Membership

Classes of employees

An employer may establish a pension plan for all of its employees or just for certain groups or classes of employees. A class of employees is usually determined by the terms and nature of employment. For example, any of the following groups could constitute a class:

- salaried employees
- hourly employees
- unionized employees
- non-unionized employees
- supervisors
- managers
- executives/corporate officers
- employees at a specific location or in a specific division.

A class cannot be made up of a specific (or “named”) individual. If the employer wants to provide one particular person with pension benefits, a separate single-member plan (often called an Individual Pension Plan or IPP) may be established. However, a class can be made up of an individual if the class is defined as a certain position (such as the president of a corporation).

Mandatory vs. voluntary membership

Membership in a plan can either be mandatory or voluntary. If the plan is mandatory, all employees, or all employees in the specified class, must join the plan. Employees cannot choose whether or not they want to be members of the plan.

In a voluntary membership plan, employees may decide whether or not to join the plan. If an eligible employee chooses not to become a plan member, the employee must still be permitted to join if he or she decides to do so later on.



Eligibility conditions for plan membership

An employee becomes eligible for a plan based on years of service (employment). An employee's age or gender cannot be a condition of eligibility.

A full-time employee is eligible to join a pension plan after no more than two years of continuous service.

If you are a part-time employee in the same class as full-time employees who have a pension plan, you are eligible to join the plan if you:

- work 700 hours or more, or
- earn at least 35% of YMPE,

whichever is less, in each of the two consecutive calendar years before you join the plan.

An employer may choose to set up a separate pension plan for part-time employees, but it has to provide benefits which are reasonably equivalent to those provided for full-time employees in the same class.

You may become eligible for membership earlier if the plan permits. For example, a plan may allow full-time employees to become members after only one year of employment, or for part-time employees to become members after working only 500 hours in each of two prior consecutive years.

Eligibility in MEPPs

Since employees in an MEPP tend to move often from one employer to another, the conditions of eligibility are different. In an MEPP, employees become eligible for membership if:

- they have earnings of at least 35% of the YMPE with one or more of the employers participating in the plan, or
- they have worked 700 hours for one or more of the employers participating in the plan,

whichever is less, in each of two consecutive calendar years before applying to join the plan.

Contributions

Contributory vs. non-contributory pension plans

A pension plan may be either contributory or non-contributory. If you are a member of a contributory plan, you must make contributions (usually by payroll deduction) to receive benefits. For both DB and DC plans, the pension plan specifies the amount of your required contributions. The amount is usually a percentage of earnings. Non-contributory plans are funded entirely by employer contributions.

A plan may also permit Additional Voluntary Contributions (AVCs) to purchase improved benefits. These are contributions that you voluntarily make in addition to the required employee contributions.

Contributions held in trust

Employer and member contributions are held, in trust, separate and apart from the assets of the employer, usually by a trust or insurance company. In this way, pension benefits are protected should the business fail.

Member contributions

Employers must deposit member contributions into the pension fund within 30 days following the month when they are deducted.

In a DC plan, all member contributions (including additional voluntary contributions) must earn at least the rate of return earned by the pension fund. The pension

fund, as distinct from the pension plan, is the account in which accumulated employer and employee contributions, plus interest earnings, are held to pay benefits under the plan.

In a DB plan, member contributions must earn either the pension fund rate of return or the average rate of five-year personal fixed-term chartered bank deposit rates. If an employee makes any additional voluntary contributions, these must earn the pension fund rate of return.

Employer contributions

For a DC plan, the amount the employer contributes is specified by the pension plan (see "Types of Registered Pension Plans," p. 14). Usually, these contributions will be equal to a certain percentage of your earnings. The employer makes these contributions to the fund each month.

In a DB plan, the amount the employer contributes is not specified by the pension plan. Instead, the amount the employer contributes for future accruing benefits is based on how much the benefit is predicted to cost. An actuary estimates the cost by making certain predictions (called actuarial assumptions) about future salary levels, investment returns, when members will retire, when they will die, etc. This information is contained in a funding valuation report, which must be prepared at least once every three years.

If the actuary determines that there is not enough money in the pension fund to pay for the estimated cost of accrued benefits, the employer has to make up the difference with additional contributions until there is enough money in the fund.

50% employer cost rule

This rule applies to members of contributory DB pension plans when they terminate employment, die before retirement, or retire. The rule requires employers to pay at least 50% of the commuted value of pension benefits accumulated after December 31, 1986.

Contributions of the member, plus interest which make up more than one half of the commuted value of a member's pension benefits, must be refunded to the member.

This example shows how the 50% calculation works.

Nadia was a member of her employer's contributory pension plan from 1995 to 1999. When she left her job after four years of membership, the administrator calculated the commuted value of her defined benefit pension to be \$5,000. According to the 50% rule, Nadia's accumulated contributions should not be used to provide more than half of this amount, that is, \$2,500. However, her contributions, plus interest, totalled \$3,000, that is, \$500 more than 50% of the commuted value. Nadia received a refund of \$500 in cash. The \$5,000 commuted value of the pension benefit was transferred to Nadia's locked-in retirement account.

Vesting and Locking-in of Pension Benefits

Vesting of pension benefits

When your pension benefits are vested, you are entitled to receive the pension benefits you have accumulated. In the case of a DC plan, you are entitled to receive the employer contributions plus investment earnings, in addition to your own contributions, if any, plus investment earnings. In the case of a DB plan, you are entitled to receive the benefit accumulated according to the benefit formula.

After an employee has been part of a plan for two continuous years, any benefits accumulated after 1986 are vested. For benefits accumulated before 1987, you are vested if you are at least 45 years old and have worked or been part of the plan for 10 continuous years. Some plans have shorter vesting periods.

If you leave a contributory plan before becoming vested, you are entitled to a refund of your own contributions, plus interest.

Locking-in

Locking-in means that money payable to you as a member of a plan may only be used to provide retirement income, even if you leave your plan. Once pension benefits are vested, they are usually locked-in. There are two main advantages to having pension benefits locked-in.

First, you will have a regular income at retirement. Second, creditors may not seize locked-in pension benefits.

There are exceptions to the locking-in rule. Under certain circumstances, your pension money may be unlocked when you have a terminal illness, or, if the plan permits, when you have terminated employment and the amount of your pension benefit is small (2% or less of YMPE in the year that your employment ends).

In addition, pension monies transferred to a locked-in savings arrangement, such as a LIRA, LIF or LRIF, may be unlocked under certain circumstances. See "Locked-in Retirement Savings Arrangements" on p. 28.



Leaving a Job and Transfer Rights

Transfer rights

If you are a vested member and you leave your employment before becoming eligible for early retirement (age 55 in most pension plans), you must be offered a deferred pension. You also have the option to transfer the commuted value out of the plan, although it remains locked-in (see below).

A vested member who terminates employment and is eligible for early retirement under the pension plan may only transfer the commuted value out of the plan if the plan permits or if the plan is winding up. See "Wind-Up of a Pension Plan," p. 37.

Transfer options

The commuted value of a deferred pension may be transferred to:

- another pension plan willing to accept the funds, or
- a locked-in retirement savings arrangement, such as a LIRA, LIF or LRIF (see page 28).

The commuted value can also be used to buy an annuity that commences when you would have been entitled to receive pension payments.

If you do not choose a transfer option, your accumulated benefit will be left in the pension plan to provide a deferred pension.

In some cases, there may not be enough money in the pension fund to pay the commuted value of promised pension benefits. In this case, you would not be entitled to transfer the full amount of the commuted value. However, the balance of the commuted value, plus interest, must be transferred out within five years of the initial transfer.

The *Income Tax Act* imposes a limit on the amount of money that may be transferred on a tax-sheltered basis to a LIRA, LIF or LRIF. Money exceeding this limit must be paid to you in a non-locked-in form, such as cash.

Termination Statement

Within 30 days of termination of employment, the plan **administrator** must give you, if you are entitled to a deferred pension, a termination statement containing the transfer options mentioned above. You must let the plan administrator know which option you have chosen within 60 days after termination of employment. After you have made a decision and provided the administrator with all the necessary documentation, the administrator has 60 days to transfer the money according to the option chosen.

Locked-In Retirement Savings Arrangements

Locked-in retirement account (LIRA)

A LIRA is basically an investment account to hold money transferred out of a pension plan. It is like an RRSP, except that you cannot withdraw funds from a LIRA. For this reason, a LIRA is often referred to as a locked-in RRSP.

Like an RRSP, all funds must be transferred out of your LIRA before the end of the calendar year you turn age 69. The funds in a LIRA may be transferred either to a LIF, an LRIF or an immediate or deferred annuity.

Since RRIFs are not locked-in, funds may not be transferred out of a LIRA to purchase a RRIF. Please note that a LIF or LRIF is the same as a RRIF for purposes of the *Income Tax Act*. It is helpful to know that LIF and LRIF are pension terms and RRIF is an *Income Tax Act* term.

Life Income Fund (LIF) and Locked-in Retirement Income Fund (LRIF)

LIFs and LRIFs are personal retirement income funds which are used to provide a regular flow of retirement income. They are similar to a RRIF, except that they have certain restrictions. Like a RRIF, a LIF and an LRIF have a minimum withdrawal amount, which is determined by the *Income Tax Act*. However, since the funds in a LIF or LRIF originated in a registered pension plan, LIFs and LRIFs have additional restrictions, such as the following:

- the purchaser of a LIF or LRIF requires the written consent of his or her spouse or same-sex partner

- the holder of a LIF or LRIF cannot withdraw money from the account until the date when the original pension plan would have started making payments
- LIFs and LRIFs have a maximum (as well as minimum) withdrawal limit, to ensure that the holder of a LIF or LRIF has a regular income without the money running out.

Maximum withdrawal from a LIF

The maximum amount that may be withdrawn from a LIF is based on the age of the owner of the LIF as well as long-term interest rates. At the beginning of every year, FSCO publishes a schedule which gives the percentage of the fund which can be withdrawn for people of different ages.

By the end of the calendar year in which the owner reaches age 80, the balance remaining in a LIF must be used to purchase a life annuity. The life annuity must be a joint and 60% survivor annuity, unless the spouse has waived this right (see "Joint and Survivor Pension," p. 31).

Maximum withdrawal from a LRIF

The maximum amount that may be withdrawn from a LRIF is equivalent to the greater of:

- interest earnings of the fund in the previous year
- the value of the assets in the fund minus the difference between all amounts transferred into and out of the fund since it was established
- in the first two years of the fund, 6% of the value of the assets of the fund.

There is no requirement to annuitize a LRIF at age 80. Furthermore, if you do not withdraw the maximum amount of your LRIF in any given year, the balance may be added to the maximum amount in the following year.

Unlocking LIRAs, LIFs and LRIFs

Under certain circumstances, monies in a LIRA, LIF or LRIF may be unlocked.

Individuals facing serious financial hardship may qualify for access to monies in a LIRA, LIF or LRIF. Individuals must apply to the Superintendent of Financial Services at FSCO.

Individuals with an illness or physical disability that is likely to shorten that individual's life expectancy to less than two years may also withdraw monies from their locked-in account. In this case, application can be made to the financial institution where the account is held.

Lastly, individuals with a LIRA, LIF or LRIF may unlock their account if they are at least 55 years of age, and the total assets in all LIRAs, LIFs and LRIFs owned by the individual is less than 40 % of YMPE for that year. Again, application can be made to the financial institution where the account is held.

Joint and Survivor Pension

When a pension plan member who has a spouse or same-sex partner retires, that pension must be paid as a "joint and survivor" pension (unless the spouse or same-sex partner waives this right; see next page). This provision allows your surviving spouse or same-sex partner to receive a lifetime pension of at least 60% of your pension after your death. Because of the joint and survivor pension, the amount of pension income payable to you at retirement may be reduced to ensure that payments continue throughout your lifetime, as well as that of your spouse or same-sex partner.

If a member terminates employment and chooses to transfer his or her pension funds to purchase an annuity and the member has a spouse or same-sex partner at the time the annuity payments begin, then the annuity must be a joint and 60% survivor annuity.

The joint and survivor pension does not apply when you are living separate and apart from your spouse or same-sex partner on the date of your first pension payment.

The spouse or same-sex partner of a deceased member who is receiving joint and survivor pension payments continues to be entitled to these payments even if he or she becomes the spouse or same-sex partner of another person.

Spousal waiver

You and your spouse or same-sex partner may decide to waive the joint and survivor pension benefit. You can do this by providing a written waiver to the administrator, or a certified copy of a domestic contract (such as a pre-nuptial agreement). The waiver may be submitted within one year of the start of pension payments. The waiver may also be cancelled in writing within the same time period. It is a good idea for you and your spouse or same-sex partner to obtain independent professional advice before the right to a joint and survivor pension benefit is waived.

Consider the example of Frank and Frances:

Frank is within two months of retirement. He and his spouse Frances are reviewing Frank's option statement in order to select one of the following options:

- *A single life annuity with no guarantee period that will pay Frank \$1,000 per month, providing Frances agrees to waive her joint and survivor entitlement.*
- *A guaranteed annuity, with a guaranteed period of 10 years that will pay Frank \$930 per month, providing Frances agrees to waive her joint and survivor entitlement. If Frank dies within the 10-year guarantee period after retirement, Frances will receive the same monthly payment for the remainder of the 10-year period.*
- *A joint and 60% survivor annuity that will pay Frank \$850 per month during Frank's lifetime. After Frank dies, Frances will receive \$510 for the remainder of her lifetime.*

As they work through the options, Frank and Frances decide that the security of a lifetime income assured to each of them is the wisest choice, and opt for the joint and survivor form of pension.

Death Before Retirement

For benefits accumulated after December 31, 1986

If you die, the vested benefits you have accumulated after December 31, 1986, are payable as a death benefit to your beneficiary. A spouse or same-sex partner living with the vested member at the time of death is automatically the beneficiary, unless the spouse or same-sex partner has waived this entitlement in writing.

Your spouse or same-sex partner receives either a lump-sum payment equal to the commuted value of your pension benefit, or an immediate or deferred pension.

If you do not have a spouse or same-sex partner, are not living with your spouse or same-sex partner, or your spouse or same-sex partner has waived entitlement, your beneficiary receives a lump-sum payment equal to the commuted value. If there is no spouse, same-sex partner or beneficiary, the lump sum is paid to your estate.

In defined benefit plans, if you had a life insurance policy paid for by employer premiums, and your pension plan provides for this, then the lump-sum amount payable to your beneficiary under the pension plan may be reduced.

Survivor benefit statement

Within 30 days of being notified of a member's death, the administrator must give the spouse, same-sex partner or other beneficiary a survivor benefit statement. This statement describes the deceased member's pension benefits, including options for how the benefit can be paid. After the spouse, same-sex partner or beneficiary receives this statement, he or she must choose a benefit

option within 90 days. The administrator then has 60 days to comply with the chosen option. If the spouse or same-sex partner does not choose a payment option within 90 days, the administrator may choose to pay the death benefit in the form of a pension.

For benefits accumulated before January 1, 1987

Before January 1, 1987, the law did not require the commuted value of vested benefits to be paid as a death benefit. As a result, beneficiaries are not entitled to benefits accumulated by the member before this date, unless the plan specifically states otherwise. Nevertheless, if the plan is contributory, member contributions made before January 1, 1987, plus interest, must be refunded to the beneficiary. This refund is usually payable as a lump sum.

Sale of Employer's Business

You may be concerned about how your pension benefits will be affected when you accept employment with a new employer who has purchased the business at which you work. How accumulated pension benefits are dealt with will depend on whether or not your new employer provides a registered plan for transferred members.

If the new employer does not provide a pension plan

In most cases, a new employer will not provide a pension plan for transferred members. However, if, as a transferred member, you are covered by a collective agreement, a new employer may be required under the Ontario *Labour Relations Act* to provide a pension plan for the duration of the collective agreement. If the new employer does not provide a pension plan, the old employer will be responsible for your pension benefits accumulated to the date when the business was sold.

If the new employer provides a pension plan

If there is a registered pension plan for transferred employees, the effect on pension benefits depends on whether or not such plan assumes responsibility for the benefits accumulated under the old pension plan up to the date the business was sold.

If the new employer is not willing to assume responsibility for the accumulated benefits, the old employer will be responsible for those pension benefits accumulated up to the date the business was sold. The new employer is then responsible for the pension benefits accumulated after the date of sale. If this happens, you will have retirement income from two sources: the old employer's plan and the new employer's plan.

If a new employer is willing to assume responsibility for the benefits accumulated under the old plan, assets must be transferred from the old plan into the new plan, but only once the Superintendent of Financial Services reviews the transfer terms and consents. If this happens, the new employer is responsible for the pension benefits both before and after the sale.

Employment not terminated for purpose of pension benefits

When you transfer from an old plan to a new plan, regardless of who is responsible for the benefits under the old plan, your employment is not considered terminated for the purpose of the pension plan. In other words, when determining plan membership eligibility, vesting, and entitlement to certain benefits, the period of membership in a new employer's pension plan will include membership in the old employer's plan.

The following example illustrates how benefits may be handled when a business is sold:

Marcel worked for ABC Company and was a member of the pension plan before ABC's business was sold to XYZ Company. Marcel accepted employment with XYZ Company. At the time of sale, Marcel had been a member of ABC Company's pension plan for one year. XYZ Company has a pension plan for transferred employees of ABC Company. Therefore, Marcel is not considered terminated for the purpose of pension plan membership. Marcel will become fully vested in XYZ Company's pension plan after only one year of employment with XYZ Company (1 year with ABC Company plus 1 year with XYZ Company = 2 years, the minimum vesting requirement). Marcel will not have to work a full two years with XYZ Company before being vested in XYZ Company's pension plan. Note that this recognition of membership in the former employer's pension plan applies whether or not XYZ Company has assumed responsibility for the benefits accrued under the old ABC Company plan.

Wind-up of a Pension Plan

Causes of wind-up

A wind-up occurs when a pension plan is fully or partially discontinued by the employer. This is often done as the result of a downsizing or reorganization where a significant number of members are laid-off, when a business is shut down, or when an employer is bankrupt.

Sometimes an employer may simply decide to discontinue its pension plan. Since pension plans are voluntarily set up by employers, they may be wound up at any time, as long as the existing rights and entitlements of pension plan members are protected.



Termination of employment and vesting on wind-up

A wind-up comes into effect on a date determined by the employer. This is called the effective date. On this date, the benefit accrual of members affected by the wind-up will end for the purposes of the plan, even though members may continue to work for the company if it remains in business. Also, all members affected by a wind-up are fully vested on the effective date.

Transfer rights

If you are entitled to a pension or deferred pension under a plan that is being wound up, you have the same transfer rights as a member whose employment is terminated under normal circumstances (see "Leaving a Job and Transfer Rights," p. 26), even if you have reached early retirement age.

Enhanced benefits for older workers (grow-in rights)

If your plan provides for enhanced early retirement benefits, then some older, longer service members affected by the wind-up may be entitled to retain the value of these early retirement benefits. To qualify for this enhancement, the combination of your age plus your years of continuous employment or plan membership must equal at least 55. This enhanced entitlement is often referred to as "grow-in."

Similarly, if you have worked for an employer for at least 10 years, you are entitled to any bridging benefits that you would have been entitled to if the plan had not wound up.

Grow-in rights provide better retirement security to older members of a wind-up group, who often find it more difficult to obtain new employment or learn new skills in the post-termination period.

More information on plan wind-ups

For more information on wind-ups and related issues (such as surplus), call FSCO's Pension Plans Branch at (416) 226-7776.

Pension Benefits Guarantee Fund (PBGF)

Sometimes an employer with a DB plan becomes insolvent and is unable to pay the pension it has promised. This usually occurs because the money held in the pension fund is insufficient to meet the plan's payouts, and the company has no other source of funds for the payments.

When this happens, the PBGF guarantees payment of certain defined benefits in Ontario (except in multi-employer plans), subject to limitations.

The PBGF is a program paid for by employers of DB plans, except in multi-employer plans. The annual fee, or assessment, that each employer pays is based on the number of members in its pension plan and the plan's current financial situation.

The PBGF is the only fund of this type in Canada.



Other Legislation Affecting Pension Benefits

Other Acts besides the *PBA* may affect the rights of pension plan members.

Federal Income Tax Act

The *Income Tax Act* encourages companies to establish registered pension plans by making contributions to those plans tax deductible and exempting their investment income from tax. The *Income Tax Act* does, however, impose maximum limits on contributions and benefits.

The *Income Tax Act* also requires your employer to report a Pension Adjustment (PA) on the T4 slips (Statement of Remuneration Paid) it issues to plan members. A PA is the assumed value of your benefits earned in a year in a registered pension plan. For members of defined contribution plans, the PA is simply the total employer and employee contributions for the year, plus any additional voluntary contributions. For members of DB plans, the PA is based on a formula set out in the *Income Tax Regulations*.

(You should be aware that the amount of a PA reduces the RRSP contribution amount that may be deducted from your income. Questions regarding the calculation of PAs should be directed to your employer, and those regarding RRSP contributions should be directed to the Canada Customs and Revenue Agency).

Ontario Employment Standards Act (ESA)

When plan members are on pregnancy or parental leave, they continue to participate in the pension plan unless they:

- elect in writing not to do so, or
- the plan is contributory and the member declines to pay his/her contributions during the leave period.

The *ESA* also requires employers to continue to pay contributions to a pension plan during a statutory notice of termination period.

Ontario Workplace Safety and Insurance Act

When a plan member is absent from work as the result of injury, the employer must continue to make contributions to the plan throughout the first year after the injury, unless the pension plan is contributory and the member declines to pay his or her contributions while absent from work. There may be exceptions in the case of a MEPP.

Ontario Family Law Act (FLA)

Under the *FLA*, pensions are family property and can be divided along with other family assets in the event of marriage breakdown. The next section on marriage breakdown will explain how benefits may be affected by an order made under the *FLA*.

Pension Splitting on Marriage Breakdown

In the event of marriage breakdown, the *PBA* permits the division of pension assets by court order or domestic contract under family law. However, certain restrictions apply. A former spouse or same-sex partner of a pension plan member cannot access the member's pension benefit until the member is entitled to receive benefits or until the normal retirement date of the member, whichever is earlier. The former spouse or same-sex partner can receive no more than 50% of the pension benefit accumulated by a pension plan member while the two were spouses or same-sex partners.

A former spouse or same-sex partner becomes entitled to your pension assets once a copy of your domestic contract or court order is given to the plan administrator. If you are a plan member and you leave your employment, your administrator must provide your former spouse or same-sex partner with a written statement that sets out the same transfer options offered to you.

A marriage may break down after a member has already transferred the commuted value of the pension benefit out of the plan or has begun to receive pension payments. In this case, an immediate assignment of pension credits between the parties can be made. The amount transferred to the non-member spouse or same-sex partner continues to be locked-in.

The *PBA* does not specify how a pension is to be valued when pension assets are divided on marriage breakdown. Valuation principles have been established in a number of court decisions.

Members' Advisory Committee

The purpose of an advisory committee is to monitor the pension plan and make recommendations on its administration. The committee also promotes awareness and understanding of the plan.

Members of a plan may decide to establish a pension plan advisory committee by a majority vote. All members of the plan must be notified that a vote will be held to decide whether or not a committee will be formed.

Each class of employees covered by the pension plan is entitled to at least one representative on the committee. Other people who receive or are entitled to benefits from the pension fund may also appoint a representative.

The advisory committee, or a person appointed to be its representative, has the right to examine the records of the administrator relating to the pension plan or pension fund, but not personal records.

The administrator does not have to accept recommendations made by the advisory committee.

Plan Administration

The plan administrator

The administrator is the person responsible for running the pension plan. In most cases, the administrator is the employer who established the plan. However, the administrator may also be a board of trustees (if the plan is a MEPP), a pension committee, consisting either of representatives of members or of the employer and members, an insurance company (if it guarantees the benefits of the plan), or a special body authorized by an Act of the Legislature.

Responsibilities of the administrator

The administrator must ensure that the pension plan and pension fund are administered in accordance with the law and the provisions of the plan. The administrator, among other things, is responsible for:

- filing the pension plan and plan amendments for registration
- providing information to members
- responding to member questions about the plan.

These responsibilities will be explained in the following sections.

Registration of Plans and Amendments

The administrator must apply for registration of the pension plan within 90 days of its establishment. The administrator must also apply for registration of any amendments to the plan within 60 days after the pension plan is amended.

Void amendments

An amendment cannot reduce

- the amount of a pension benefit already accumulated
- the commuted value of pension benefits already accumulated
- a pension already being paid.

Amendments that violate this rule are called "void amendments." FSCO will not register such amendments.

Adverse amendments

An adverse amendment is one that

- reduces the rate of pension accumulation after the date of the amendment
- adversely affects the rights or obligations of members and other persons receiving or entitled to payments from the fund.

An example of an adverse amendment is one that, by changing the defined benefit formula, reduces your future benefit accrual after a certain date. For these types of amendments, the administrator must make you and other affected members aware of the amendment and provide an explanation. You and other affected members must also be invited to submit comments to FSCO and the administrator. However, FSCO cannot refuse registration of such an amendment if it otherwise complies with the *PBA* and regulations.

Information Provided to Plan Members

Members are entitled to information about their pension plan and their pension entitlements. It is the duty of the administrator to provide this information in a timely way.

Information that the administrator must provide to you

- Pension plan booklet — must be provided within 60 days of eligibility for membership, or within 60 days of starting employment if membership in the plan starts with employment
- Annual statement — must be provided within six months of the year-end of the plan
- Retirement statement — must be provided within 30 days of a member's retirement (the administrator must also advise a member of retirement options at least 60 days before retirement)
- Termination statement — must be provided within 30 days of termination
- Survivor benefit statement — must be provided within 30 days of notice of death.

Information that the administrator must disclose on request

A member, the spouse or same-sex partner of a member, any other person with entitlements under the plan, a trade union that represents members of the plan, an employer who is not the administrator, a person making

contributions on behalf of the employer, or an authorized agent of any of the above may request certain documents held by the administrator, including the following:

- annual information returns
- financial statements
- actuarial funding reports
- plan text
- plan amendments
- correspondence with FSCO that is less than five years old.

Documents must be made available for inspection at least once in a calendar year. This information must be made available at the member's place of employment or at a mutually agreed upon place. The administrator may charge a reasonable fee for photocopies.

Plan documents filed with FSCO may also be inspected at our offices (and copied for a fee), by appointment. Phone our Pension Plans Branch, at (416) 226-7776 if you would like to make an appointment to inspect your plan documents.

Member Inquiries

Questions to plan administrator

The plan administrator has a duty and an obligation to answer questions from pension plan members. The check-list on the next page gives examples of some questions you may want to ask your plan administrator.

If you have a question or concern about your pension plan not answered by your pension booklet, you should first submit your question in writing to the plan administrator. Ask that you receive a response in writing. If you are not satisfied that the administrator's response has addressed your concerns, then you should write to the FSCO Pension Plans Branch (PPB).

Our address is 5160 Yonge Street, P.O. Box 85, North York, Ontario, M2N 6L9. Include the name of your employer, the plan name and registration number, and all relevant information with your letter. Attach a copy of both your letter to the administrator and the administrator's reply. PPB staff will then look into the matter.

FSCO does not keep personal data about pension plan members. For this reason, FSCO is unable to answer inquiries about personal benefits and entitlements. The plan administrator is responsible for all data concerning individual entitlements under the plan, and is also responsible for answering related questions. Your annual pension statement, as well as the pension plan booklet, should include most of the information relevant to your accumulated benefits and entitlements.

Know the Facts

It is important for you to have all the facts about your pension plan, so that you can make informed financial decisions. Here are some sample questions or issues you may want to address.

- Am I eligible to join the pension plan?
- Do I have to join the plan?
- What is the name of the pension plan?
- What is the registration number of the plan and where is it registered?
- How long do I have to work before I am able to join the plan?
- Am I allowed to join the pension plan if I work part-time?
- Are there any brochures, booklets or videos about the plan?
- What type of plan do I belong to?
- How much do I have to contribute?
- Am I allowed to contribute more, if I want to?
- How much does my employer contribute?
- When do I receive my annual pension statement?
- When will my pension be vested?
- What happens if I leave the company before I retire?
- What happens if I die before I retire?
- What happens if I die after I retire?

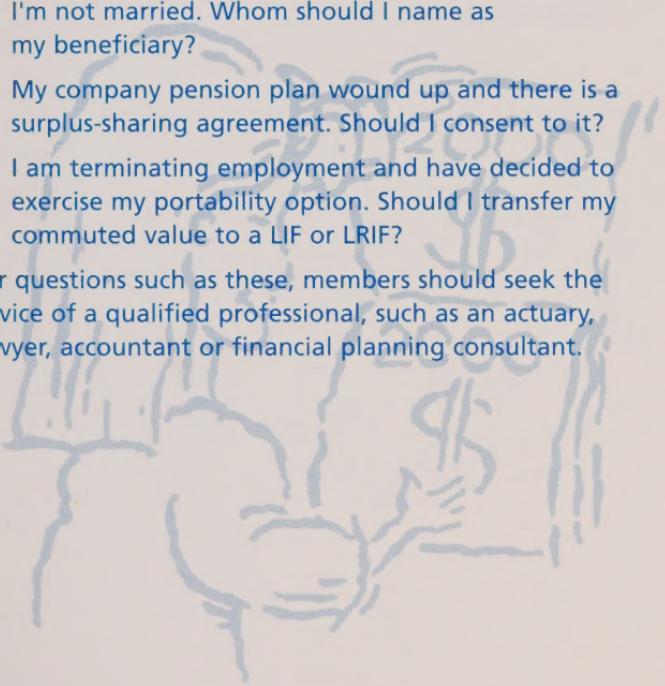
- Will my pension be affected if my spouse and I separate or divorce?
- Is it possible for me to unlock any of my pension benefits?
- What is the normal retirement date under the plan?
- What happens to my pension if I continue to work after my retirement date?
- What happens if I become disabled before I retire?
- What happens if I become terminally ill?
- At what age can I retire early?
- Will my pension be reduced if I retire early?
- How is my pension calculated?
- Is my pension indexed?
- Will my benefits get reduced when I receive Canada Pension Plan benefits?
- How do I name or change a beneficiary?
- Where can I view the pension plan documents?
- Will I be notified if the plan is amended?
- Does the company offer any sessions on retirement financial planning?
- What happens if my employer's business gets sold?
- What happens if my employer goes out of business?
- Can I select the investments for my pension fund?
- Do I have a say in how the plan is administered?
- What is the financial position of the plan?

Questions Regarding Personal Financial Matters

There are some questions that **neither FSCO nor** the administrator can help you with — such as questions involving a personal financial decision. For example:

- I terminated my employment and have been offered options regarding my benefits. Should I transfer the money out of the plan or choose a deferred pension?
- The company has offered me an early retirement window - should I take it?
- I'm retiring at the end of the year. Should my spouse and I choose a joint and survivor annuity or a straight life annuity?
- I'm not married. Whom should I name as my beneficiary?
- My company pension plan wound up and there is a surplus-sharing agreement. Should I consent to it?
- I am terminating employment and have decided to exercise my portability option. Should I transfer my commuted value to a LIF or LRIF?

For questions such as these, members should seek the advice of a qualified professional, such as an actuary, lawyer, accountant or financial planning consultant.





Handy Phone Numbers

Financial Services Commission of Ontario

General Inquiries:

(416) 250-7250

Toll free - 1-800-668-0128

Pension Plans Branch

(416) 226-7776

Toll free - 1-800-668-0128

Publications Line

(416) 590-7298

Toll free - 1-800-668-0128

Visit our website at:

www.fsco.gov.on.ca



Financial Services
Commission
of Ontario



(416) 250-7250 or 1-800-668-0128

TTY (416) 590-7108, 1-800-387-0584

www.fsco.gov.on.ca

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